

# Notice of Allowability

Application No.

09/674,817

Examiner

Stuart F. Baum

Applicant(s)

LOERZ ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed on 7/14/2004.
2. ☒ The allowed claim(s) is/are 24, 54, 25-28, 31-32, 35-46 (renumbered 1-20).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 0804.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Stuart F. Baum

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Anne-Marie Yvon on 8/2/2004.

#### IN THE CLAIMS:

--35. (currently amended) A host cell which is transformed with the nucleic acid molecule as claimed in claim 24, or transformed with a vector comprising the nucleic acid molecule of claim 24, [as claimed in claim 31] or a cell which is derived from the host cell, which derived cell comprises said nucleic acid molecule.

36. (currently amended) A process for the preparation of a protein encoded by the nucleic acid molecule as claimed in claim 24, wherein a host cell [as claimed in claim 35] transformed with the nucleic acid molecule of claim 24 or transformed with a vector comprising said nucleic acid molecule is cultured under conditions which permit said protein to be synthesized and said protein is isolated from the cultured cells and/or the culture medium.--

37. (currently amended) A process for generating a transgenic plant cell, wherein

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- a) the nucleic acid molecule as claimed in claim 24 or
- b) a [the] vector [as claimed in claim 31] comprising said nucleic acid molecule is integrated into the genome of a plant cell.

38. (currently amended) A transgenic plant cell which has been transformed with the nucleic acid molecule as claimed in claim 24 or transformed with [the] a vector [as claimed in claim 31] comprising the nucleic acid molecule of claim 24, or a cell which is derived from the transgenic plant cell[.], which derived cell comprises said nucleic acid molecule.--

39. (currently amended) A process for generating a transgenic plant cell, wherein

- a1) the nucleic acid molecule as claimed in claim 24 or
- a2) [the] a vector [as claimed in claim 31] comprising the nucleic acid molecule of claim 24 is integrated into the genome of a plant cell and
- b) an intact plant is regenerated from said plant cell.--

--45. (currently amended) Propagation material of the plant as claimed in claim 40[.], wherein said propagation material comprises said nucleic acid molecule.--

--54. (currently amended) An isolated nucleic acid molecule which hybridizes with the complement of the nucleic acid molecule of claim 24, wherein the hybridization conditions comprise a hybridization temperature of 68<sup>0</sup>C, a hybridization buffer salt

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concentration of 5X SSC, a wash temperature of 68<sup>0</sup>C, and a wash buffer salt concentration of 0.5X SSC[.], wherein the isolated nucleic acid molecule encodes a wheat isoamylase.--

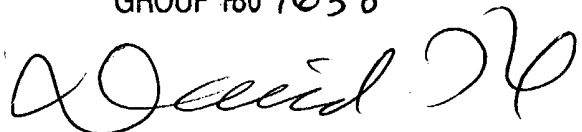
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Stuart F. Baum Ph.D.  
Patent Examiner  
Art Unit 1638  
August 4, 2004

DAVID T. FOX  
PRIMARY EXAMINER  
GROUP 180 1638

A handwritten signature in black ink, appearing to read "David T. Fox", with a stylized flourish at the end.